

**REMARKS**

Claims 1-13, 26-30, 50-58, 66-70 and 77-121 are pending after this amendment. Applicants have canceled claims 14-25, 31-49, 59-65, and 71-76 in this Response and added claims 77-121 to replace these claims.

Formal drawings are submitted with this Response as requested by the Examiner. The new drawings replace the original drawings submitted with the application.

The Examiner rejected claim 52 under 35 U.S.C. § 112, second paragraph. Accordingly, claim 52 has been amended to correct the typographical error it contained and is now allowable.

The Examiner rejected claims 1-5, 7-12, 14, 20, 23-28, 30-33, 35, 39-42, 46-51, 54, 56-59, 66-72, and 75-76 under 35 U.S.C. 102(e) as being anticipated by O'Neil. As indicated above, claims 14-25, 31-49, 59-65, and 71-76 have been canceled. Applicants traverse this rejection as applied to remaining pending claims 1-5, 7-12, 26-28, 30, 50-51, 54, 56-58, and 66-69 and new claims 77-121.

Each of claims 1-13, 50-51, 54, 56-58, 66-70, and 75-117 recite "on-line group-buying." O'Neil is directed towards and "agent-rule based command and control of informational assets in a networked computer environment." Abstract. The only place where the act of buying is disclosed is in the context of a discussion of an "E-Bazaar."

Applicants have reviewed those portions of O'Neil cited by the Examiner, and can find no disclosure or hint of an "on-line group-buying" capability. At best, O'Neil discloses a "Semi Real-time Auction," "Large Quantity of Sales," and "a hybrid of an auction along with a large quantity of sales scenario." Col. 25, lines 14-19; Col. 34, lines 27-29. But none of these discloses "on-line group-buying." "On-line group-buying," is generally collaborative, in that all buyers purchase at the same price, benefiting from the aggregated quantity of their offers to reduce the price as much as possible. In stark contrast, O'Neil's auctions are competitive affairs, pitting one prospective buyer against another, each attempting to outbid the others, thereby increasing the final resulting price. Indeed the winner bidder (or bidders) ends up paying the highest prices.

Similarly, no group buying is implied by O'Neil's "large quantity of sales." This is nothing more than simply selling a large quantity of a given item, such as having 100 VCR's for sale. But each item is purchased by individual buyers, just as in retail stores. There is no mention by O'Neil that the large quantity is sold to a group of buyers whose individual offers are aggregated to reduce the price.

Finally, O'Neil discloses, "It may also be desirable to allow real-time price adjustments. In this case, an Advertiser may find it desirable to maintain a hybrid of an auction along with a large quantity of sales scenario". Col. 34, lines 26-29. This "hybrid"—an auction of a large quantity—merely allows for multiple bidders to "win" the auction. For example, a seller may auction 100 VCRs, which would be "won" by the highest bidders, that is, the bidders offer the highest prices. Again, this precisely the opposite of a group buying sale, where the buyers all pay the same price which decreases (rather than increase as in an auction) with the aggregation of their offers.

Furthermore, claims 1-13, 50-51, 54, 56-58, and 66-70 disclose a "flash demand curve"; claim 32 discloses a "price curve"; claims 82, 92, 99, 105, 112, and 116 disclose a "demand curve"; claims 84 and 94 disclose an "offer curve"; and claims 83, 85, 93, and 95 disclose a "curve." As noted above, each of these claims also discloses "on-line group-buying." O'Neil never discloses any of these types of "curves," much less a "flash demand curve," or a curve in the context of "on-line group-buying." At best, O'Neil discloses "Some Advertisers may desire to display real-time information in the ProductInfo Runnable such as the current quantity ordered and the total quantity desired." Col. 34, lines 34-36. But this is a far cry from displaying any of the curves as claimed. To provide an exemplary difference between the two, by definition a curve represents at least two parameters. But O'Neil discloses only the potential display of one parameter – "quantity." Further, a curve represents how a change in one parameter is associated with a change in another, for instance how a higher price is associated with a lower quantity. O'Neil neither discloses nor suggests the functionality or display of a curve as claimed.

The Examiner rejected claims 8, 13, 15-23, 26, 29, 31, 34, 36-38, 42-45, 59, 61, 63-65, and 73-74 under 35 U.S.C. 103 as being unpatentable over O'Neil and Official Notice. As indicated above, claims 14-25, 31-49, 59-65, and 71-76 have been canceled. Applicants traverse

this rejection as applied to remaining pending claims 8, 13, 26, and 29 because the references as combined do not disclose or suggest the claimed invention.

Claim 13 and 29 recite “storing the at least one flash demand curve in a data repository” and “the flash demand curve is constructed by plotting received offers on a graph according to price and cumulative number of offers received at or below each price,” respectively. Examiner admits that O’Neil contains neither of these elements. Office Action, pp. 11, 14.

Assuming *arguendo* that Official Notice was taken properly, it does not overcome this deficiency. Accepting for the sake of argument that it was old and well known in the art at the time the invention was made “that data stored in databases may be extracted and manipulated by users to portray desired aspects of the data” and that “graphical data be displayed in many formats, including as an X-Y graph” (Office Action, pp. 11, 14), Official Notice of these assertions do not contain or suggest the recited limitations. The alleged Official Notice is too general and vague to disclose or suggest “storing the at least one flash demand curve” or “the flash demand curve is constructed” as claimed. Examiner simply overreaches in his suggestion that the general concepts of data manipulation and display discloses or suggests, together with O’Neil, the flash demand curves as claimed. Indeed, applying the Examiner’s logic would mean that no manipulation or graphical display of data, no matter how innovative, could be considered novel and non-obvious.

Examiner’s rejection does not specifically address Claims 8 and 26 but these claims also recite a “flash demand curve”, and “constructing the flash demand curve”, respectively. As described above, neither O’Neil nor Official notice disclose a “flash demand curve,” or “constructing the flash demand curve” and thus these claims are allowable.

Further, the Examiner’s rejections of the claims recited above are each based in part on facts outside the record of which the Examiner has taken official notice. If the Examiner maintains these rejections, Applicants respectfully request that the Examiner provide a reference and/or an affidavit proving that claimed “flash demand curves” of which the Examiner has taken Official Notice are “capable of such instant and unquestionable demonstration as to defy dispute,” as required by MPEP 2144.03.

The Examiner rejected claims 6, 53, 55, 60, and 62 under 35 U.S.C. 103 as being unpatentable over O’Neil and Skhedy and claim 62 as being unpatentable over O’Neil, Skhedy

and Official Notice. As indicated above, claims 60 and 62 have been canceled. Applicants traverse this rejection as applied to remaining pending claims 6, 53, and 55. Each of these claims recite "flash demand curve", which, as described above O'Neil does not disclose. Neither does Skhedy overcome this limitation. Skhedy is directed towards "a global bilateral buyer-driven system for creating binding contracts by incorporating various methods of communication, commerce and security." Although Skhedy discloses "sellers could be provided with a hardware device used for authentication," (Col. 24, lines 23-26) the seller tool of a flash demand curve as claimed is not disclosed. In fact, a word search of Skhedy yields no references to a "curve" of any kind. This element is missing from either of the cited references and is not suggested by their combination.

In addition, claim 6 depends from claim 1 and claims 53 and 55 depend from claim 50, and therefore derive their patentability at least in part from these claims. As described above, claims 1 and 50 are patentably distinct over the reference cited by Examiner, and therefore claims 6, 53, and 55 are also patentable at least on this ground.

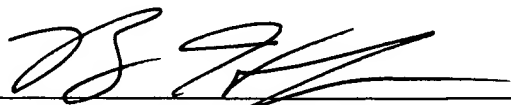
Accordingly, Applicants submit that the cited claims are patentably distinct over the cited art. Consideration of this application and the early allowance of all claims herein are requested.

Should the Examiner wish to discuss the above amendments and remarks, or if the Examiner believes that for any reason direct contact with Applicants' representative would help to advance the prosecution of this case to finality, the Examiner is invited to telephone the undersigned at the number given below.

Respectfully submitted,  
TOM VAN HORN *et al.*

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By: \_\_\_\_\_



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